STUDENT ID NO

MULTIMEDIA UNIVERSITY

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FINAL EXAMINATION

TRIMESTER III, 2019 / 2020 SESSION

UIF 262 – ISLAMIC FAMILY LAW

(All Sections / Groups)

09 JUNE 2020
Reading Time: 09.00 – 09.15 a.m.
(15 Minutes)
Answering Time: 09.15a.m. – 12.15 p.m.
(3 Hours)

INSTRUCTIONS TO STUDENTS

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes only in their question paper. Students then have the remaining **three hours** in which to answer the questions.

2. This Question paper consists of 3 pages with 5 questions only.

3. Attempt **ONE** question in **PART A** and **ALL** questions in **PART B** which are **COMPULSORY**. The distribution of the marks for each question is given.

4. Students are allowed to bring any the following only into the Examination Hall:

   a. The translation of the Holy Quran;
   b. Islamic Family Law (Federal Territories) Act 1984.

5. Please write all your answers in the Answer Booklet provided.

PART A:

ANSWER ANY ONE (1) QUESTION ONLY

QUESTION 1

Dr. Hisham is a handsome man, married to Dr. Shima and blessed with two kids. Dr. Hisham works as a Specialist in a well-known private hospital in Kuala Lumpur.

In one of the business meetings with clients, Hisham met Alisa, a beautiful staff nurse from Klinik Rasa Sayang in Cheras. From there, they started to become friends and went out together very often. After some times, they made confession that both of them had fall in love with each other and the relationship continued for several months. Dr Hisham wanted to marry Alisa.

At the same time, Dr. Hisham became so confused that he still loves his wife. However, he also felt that he can't afford to lose Alisa. He decided to tell Alisa about his status as a married man and Alisa accepted it. She also told Hisham that she is willing to be the second wife to him.

In an application to the Syariah Court of Kuala Lumpur for permission to contract a second marriage, Dr. Hisham stated that the main reason for his application was based on his fear that he and Alisa might commit the sin of *zina* as both of them loved each other very much and they had a very close relationship.

Consider whether the Syariah Court would approve his application for polygamy?

(Total: 25 marks)

QUESTION 2

Adam and Noah are cousins who are very close to each other. Adam is a doctor working in Johor Bahru while Noah is a doctor working in Melaka. Adam has his own clinic. With the expansion of his business, his clinic was in need of more staff. He recruited new staff including Mona, a beautiful young nurse. Her excellent performance in the company had certainly impressed Adam. From there, he started to inspire and had fallen in love with her. They became friends thereafter. Adam made up his mind and told Mona that he wanted to marry her.

Unfortunately, unknown to Adam, his own cousin, Noah actually has been eyeing on Mona for a long time since they were from the same university. Noah tried several times to approach Mona but there was no response from her. Meanwhile, Adam who was so infatuated with Mona asked his parents to propose Mona through a proper betrothal ceremony. On the date agreed by the parties, the betrothal took place as planned where Mona's family accepted the proposal. There were exchange of gifts as well as ring during the ceremony. It was also agreed by both parties that the marriage was to be held next month.

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Few weeks later, Noah who had just heard about the news feel angry and told Adam that he was the one who supposed to be with Mona. He made up stories that the feelings between them were mutual. Without discussing or asking further clarification from Mona, Adam who was emotionally affected and thought that Mona was cheating on him decided to call off the engagement.

Mona was so surprised with Adam's decision. The preparation for the wedding was almost done and the invitation had been distributed to family and friends. As a result of the incident, she became seriously depressed and embarrassed.

a) Advise Mona as to her rights in law, and the possible legal actions or remedies available on her. Support your answer with relevant laws and cases.

(15 marks)

b) Would your answer be different if the case happened before the amendment of Article 121 (1A) of the Federal Constitution? Cite the relevant case(s) where appropriate.

(10 marks)

(Total: 25 marks)

PART B:

ANSWER ALL THE QUESTIONS

QUESTION 3

Lily and Malik are always marked as loving couple by family members, friends and colleagues. They are married for 5 years and blessed with twin girls, Nana and Nini, aged 4. Malik is a loving, responsible and caring husband and father yet, he is a jealous husband. He does not allow Lily to work and mix around with another man. He will accompany her everywhere she wants to go and most of the time Lily feels her freedom is taken upon her marriage.

Last month, Malik went for outstation in Sabah for a week. He told Lily not to go out during his absence. Unknown to Lily, he put a CCTV in front of the house to monitor the family. One day, Lily was ill and unable to do the house chores. She ordered food from a fast food restaurant and asked the food to be delivered by Food Panda. Upon the food delivery, Lily went out of the house to pick it up from the rider. Coincidentally, the rider, Amin is one of her childhood buddies. They had a chat for few minutes before Amin left.

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Malik who watched the CCTV's footage from Sabah, felt so angry. Out of jealousy, he called Lily and pronounced, "I divorce you with 3 talaqs". All phone calls in Lily's phone were automatically recorded. The next day, when he reached home, he found Lily and the kids were not around.

He called her mother in law, Puan Saloma and explained the situation. He told her that he would like to reconcile with Lily and the pronouncement of talaq was not valid as it was made out of anger. Puan Saloma rejected him and did not allow him to come to her house to see Lily and the kids. In the meantime, Malik still hoped to get back to Lily and continue with the marriage. Lily felt disappointed and refused to get back with Malik.

After six months, Lily married Salman, her cousin. Malik felt so frustrated and asked to be transferred to Sabah. After few years of marriage, Salman lost in a hiking expedition. As of now, it has been 2 years since Salman was missing.

Based on the scenario, discuss:-

a) The validity and consequences of pronouncement of 3 talaqs in the above situation;

(10 marks)

b) In what manners may Lily dissolve the marriage upon Salman's missing?

(8 marks)

c) Whether it is possible for Malik to marry Lily again?

(7 marks)

(Total: 25 marks)

QUESTION 4

Hadhanah or custody in Islam is both the responsibility and the right of both parents. It refers to giving protection to those who cannot act for themselves, such as a child or a lunatic, from any harm, and giving care to them such as looking after their food, drink, upbringing and anything that gives advantages and benefits to them.

With reference to the above, elaborate how the application of the true concept of *hadhanah* would ensure the interest, welfare and future of a child is protected. Your answer must be supported with the injunctions from the Holy Quran and Hadith of the Prophet, the provisions from Islamic Family Law (Federal Territories) Act 1984 and decided cases.

(Total: 25 marks)

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QUESTION 5

Maria and Ramli are blessed with 2 children after 6 years of marriage. They lived happily in Bandar Bukit Mahkota, Selangor. Ramli was a loving caring father and husband to the family. He worked as a Manager at Family Mart Sdn Bhd. and was a sole breadwinner of the family.

Last two years, Ramli's attitude changed drastically. He became a fierce and bad-tempered person. He always scolded and abused Maria and the children unnecessarily and caused physical injury to them. Most of the time when he was at home, he spent his time playing games and chatting through the internet. Later, he was diagnosed with AIDS as a result of drug addiction.

Feeling sad with the disease, he went out from the house and left the family without any maintenance. Maria who was a housewife before, had to find a job to maintain the family.

Maria who has been left for a year, could not bear with the situation anymore. She bumped into you at a shopping complex and asked for your views.

a) Advise her on any options available for her in order to terminate the marriage.

(18 marks)

b) If Ramli did not leave the family, but he failed to fulfil his responsibility as a husband and father, which caused Maria to have no feelings towards him and the marriage anymore, other than the above ways of dissolution, suggest any other way to terminate the marriage.

(7 marks)

(Total: 25 marks)

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